

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Authorize Release of the Private Road Maintenance Agreement and Irrevocable Letter of Credit for the Orange Boulevard Property a/k/a Landsdowne Subdivision

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Dori DeBord

CONTACT: Larry Poliner

EXT: 7318

MOTION/RECOMMENDATION:

Authorize the release of the Orange Boulevard Property a/k/a Landsdowne Subdivision Private Road Maintenance Agreement and Irrevocable Letter of Credit #F846406 in the amount of \$49,575.80 for the Orange Boulevard Property a/k/a Landsdowne Subdivision for road improvements.

District 5 Brenda Carey

Larry Poliner

BACKGROUND:

Maintenance Agreement and Irrevocable Letter of Credit #F846406 for \$49,575.80 (SunTrust Bank) was required by Section 35.44 (e) *Additional Required Legal Submittals* (1) *Bonds* of the Seminole County Land Development Code to insure operating conditions have not significantly degraded as a result of the work covered by the Orange Boulevard Property a/k/a Landsdowne Subdivision Private Road Maintenance Agreement and Irrevocable Letter of Credit. A two year maintenance inspection was conducted by staff for this project located 4830 Orange Boulevard, Seminole County and it was determined to be satisfactory.

STAFF RECOMMENDATION:

Staff recommends the Board authorize the release of the Orange Boulevard Property a/k/a Landsdowne Subdivision Private Road Maintenance Agreement and Irrevocable Letter of Credit #F846406 in the amount of \$49,575.80 for the Orange Boulevard Property a/k/a Landsdowne road improvements.

ATTACHMENTS:

1. Maintenance Agreement
2. Irrevocable Letter of Credit
3. Request Letter

Additionally Reviewed By:

☒ County Attorney Review (David Shields)

SUBDIVISION AND SITE PLAN

PRIVATE ROAD MAINTENANCE AGREEMENT
(For use with Letter of Credit)

20 THIS AGREEMENT is made and entered into this 9 day of May,
2005, between M/T Homes of Orlando LLC,
hereinafter referred to as "PRINCIPAL" and the Lansdowne Homeowner's
Association of Lansdowne subdivision (hereinafter referred to as the
"BENEFICIARY") or, if none, SEMINOLE COUNTY, a political subdivision of the State
of Florida (hereinafter referred to as the "HOLDER"), on behalf of all purchasers
of lots within Lansdowne subdivision.

W I T N E S S E T H:

WHEREAS, PRINCIPAL has constructed certain road improvements, including
streets, curbs, storm drains and other appurtenances in that certain subdivision
described as Lansdowne Subdivision, a Plat of which is recorded
in Plat Book Pages , Public Records of Seminole County,
Florida; and

WHEREAS, the aforesaid road improvements were made pursuant to certain
plans and specifications dated September 13, 2004, (as subsequently revised
or amended) and filed with the BENEFICIARY or the HOLDER, as the case may be; and

WHEREAS, PRINCIPAL is obligated to protect the BENEFICIARY against any
defects resulting from faulty materials or workmanship of said road improvements
and to maintain said road improvements for a period of two (2) years from
May 9, 2005; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL,
PRINCIPAL has obtained and furnished to the BENEFICIARY or to the HOLDER on
behalf of the owners of lots within the subdivision (hereinafter referred to as
LOT OWNERS) a certain Irrevocable Letter of Credit No. F846406 issued by
Sun Trust Bank, in the sum of Forty Nine
Thousand Five Hundred Seventy Five & 80/100 DOLLARS (\$49,575.80).

NOW THEREFORE, the BENEFICIARY or the HOLDER on behalf of the LOT OWNERS,
agrees to accept an Irrevocable Letter of Credit as security for the maintenance
obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors and assigns, jointly and
severally agrees to be held and firmly bound to the BENEFICIARY or to the HOLDER
on behalf of the LOT OWNERS in the sum of Forty Nine Thousand Five Hundred
Seventy Five & 80/100 DOLLARS (\$49,575.80) on the condition that, if
PRINCIPAL shall promptly and faithfully protect the BENEFICIARY or LOT OWNERS
against any defects resulting from faulty materials or workmanship of the
aforesaid road improvements and maintain said road improvements for a period of
two (2) years from May 9, 2005, then this obligation shall be null and
void, otherwise it shall remain in full force and effect.

The BENEFICIARY/HOLDER, or LOT OWNER shall notify the PRINCIPAL in writing
of any defect for which the PRINCIPAL is responsible and shall specify in said
notice a reasonable period of time within which PRINCIPAL shall have to correct
said defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects
within the time specified, the BENEFICIARY/LOT OWNERS (which shall include, but
not be limited to any individual lot owner in Lansdowne subdivision)
shall be authorized, but shall not be obligated, to take over and perform, or
cause to be performed, such work as shall be necessary to correct such defects,
and shall be authorized to draw upon the Letter of Credit to pay the cost

thereof, including, but not limited to, engineering, legal and contingent costs. Further, the BENEFICIARY/LOT OWNERS (which shall include, but not be limited to any individual lot owner in Lansdowne subdivision), in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the BENEFICIARY/LOT OWNERS (which shall include, but not be limited to any individual lot owner in Lansdowne subdivision), at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the BENEFICIARY/LOT OWNERS should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the BENEFICIARY (which shall include, but not be limited to any individual lot owner in Lansdowne subdivision) the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

[This Agreement and all rights hereunder may be assigned by the HOLDER to the Homeowner's Association of Lansdowne subdivision or to the individual lot owners of Lansdowne subdivision as the case may be.]

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

ATTEST/WITNESSES:

Kari Lautenschlager

BENEFICIARY:

Lansdowne HOA

By: [Signature]

Date: 5-9-05

PRINCIPAL:

M/I Homes of Colorado, LLC

Signed, sealed and delivered
in the presence of:

Colleen Kay Macaule

By: [Signature]

Date: 5-9-05

HOLDER:

DEPARTMENT OF PUBLIC WORKS
ROADS DIVISION
SEMINOLE COUNTY, FLORIDA

WITNESSES:

Jeresa Sanchez
Maudlin

Mike Arnold
MIKE ARNOLD, MANAGER
~~Deputy Director of Public Works~~
ROADS - Stormwater Division

Date:

6/9/05

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.

STATE OF Florida)
COUNTY OF Seminole) ss

The foregoing instrument was acknowledged before me this 9th day of June, 2005, by Michael K. Arnold, who is personally known to me or who has produced _____ as identification.

Linda Gail Blackwelder
Print Name Linda Gail ELDER
Notary Public in and for the County
and State Aforementioned

My commission expires: April 6, 2008

F:\USERS\ROGER\FRM\LDCE105
Rev. 05/30/97





IRREVOCABLE LETTER OF CREDIT F846406

ISSUANCE DATE: MAY 12, 2005

ISSUING BANK:
SUNTRUST BANK
25 PARK PLACE, 16TH FLOOR, MC-3706
ATTN: STANDBY LC DEPT.
ATLANTA, GA 30303

BENEFICIARY:
SEMINOLE COUNTY BOARD
OF COUNTY COMMISSIONERS
1101 EAST FIRST STREET
SANFORD, FLORIDA 32771

RE: IRREVOCABLE LETTER OF CREDIT NO. F846406
EXPIRY DATE: SEPTEMBER 30, 2007

BY ORDER OF M/I HOMES OF ORLANDO, LLC, 3 EASTON OVAL, SUITE 500, COLUMBUS, OHIO 43219 WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON SUNTRUST BANK UP TO AN AGGREGATE AMOUNT OF \$49,575.80 (FORTY NINE THOUSAND FIVE HUNDRED SEVENTY FIVE AND 80/100 U.S. DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY THE ORIGINAL LETTER OF CREDIT AND A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT "THE PRIVATE ROAD MAINTENANCE AGREEMENT DATED MAY 9, 2005 BETWEEN M/I HOMES OF ORLANDO, LLC AND SEMINOLE COUNTY IS IN DEFAULT."

THIS LETTER OF CREDIT SHALL AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS UNLESS THE BANK SHALL GIVE NOTICE TO YOU NO LATER THAN FORTY-FIVE (45) DAYS PRECEDING AN EXPIRATION DATE THAT IT CHOOSES NOT TO RENEW THE LETTER OF CREDIT, IN WHICH CASE, THE COUNTY SHALL BE ENTITLED TO DEMAND AND RECEIVE THE OUTSTANDING AMOUNT OF MONEY REPRESENTED BY THIS LETTER OF CREDIT. IN THE EVENT A DRAW BASED ON EXPIRATION OF THIS LETTER OF CREDIT THE PROCEEDS SHALL BE HELD BY SEMINOLE COUNTY AS A CASH BOND TO SECURE CONTINUED ADHERENCE TO THE TERMS OF THE PRIVATE ROAD MAINTENANCE AGREEMENT WITH M/I HOMES OF ORLANDO, LLC.

UPON TENDER OF PAYMENT, YOU WILL RELEASE TO THE BANK THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED." IN ANY EVENT, UPON EXPIRATION OR AT ANY TIME AFTER THE COMPLETION OF THE PRIVATE ROAD MAINTENANCE AGREEMENT DATED MAY 9, 2005 AND THE COMPLETION OF M/I HOMES

SUNTRUST

IRREVOCABLE LETTER OF CREDIT F846406

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OF ORLANDO, LLC OBLIGATIONS THEREUNDER, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED."

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT THAT SUCH DRAFTS WILL BE DULY HONORED UPON PRESENTATION TO THE DRAWEE.

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, THE BANK HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT SUNTRUST BANK SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEY'S FEES IN EXCESS OF FIFTEEN (15%) OF THE AGGREGATE AMOUNT OF THIS LETTER OF CREDIT.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH UNDERTAKING SHALL NOT, IN ANY WAY, BE AMENDED BY REFERENCE HEREIN TO ANY AGREEMENT, AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY DOCUMENT OR AGREEMENT OTHER THAN THE PRIVATE ROAD MAINTENANCE AGREEMENT DATED MAY 9, 2005, AND REFERENCED HEREIN.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 500.

ALL DOCUMENTS ARE TO BE REMITTED TO:
SUNTRUST BANK
ATTN: STANDBY LC DEPT. MC: GA-ATL-3706
200 SOUTH ORANGE AVENUE
ORLANDO, FL 32801

OR

SUNTRUST BANK
25 PARK PLACE, 16TH FLOOR, MC-3706
ATTN: STANDBY LC DEPT.
ATLANTA, GA 30303

SUNTRUST BANK


JON CONLEY
MANAGER/VP



Columbus/Cincinnati, Ohio

Indianapolis, Indiana

Tampa Bay/Orlando/West Palm Beach, Florida

Charlotte/Raleigh, North Carolina

Washington D.C.

February 29, 2008

GLEN DENMAN

Seminole County Board of County Commissioners
1301 East 2nd Street
Sanford, FL 32771

RE: RELEASE OF LANDSDOWNE MAINTENANCE BONDS

To whom it may concern:

M/I Homes has completed all require work for the community known as Landsdowne. With the required work complete, approved and through our maintenance period we request that Seminole County release the Maintenance Bond (Bond Nos. F846075 F846406) put in place prior to the issuance of the certificate of completion by Seminole County.

Thank you in advance for your help in this matter and please do not hesitate to contact me with any comments, questions, or concerns as relates to this matter.

Sincerely,

Justin Campbell
Land Development Manager

Cc: File